

**STATE OF ARIZONA**  
**Citizens Clean Elections Commission**  
**ANNUAL REPORT**  
JANUARY 1, 2002 - DECEMBER 31, 2002





## TABLE OF CONTENTS

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<b>Executive Summary .....</b>	<b>5</b>
<b>Overview .....</b>	<b>6</b>
<b>The Citizens Clean Elections Act .....</b>	<b>10</b>
<b>The Citizens Clean Elections Commission.....</b>	<b>15</b>
<b>Commissioner Biographies.....</b>	<b>16</b>
<b>Commission Mission and Vision.....</b>	<b>19</b>
<b>Certifying And Funding Candidates .....</b>	<b>23</b>
<b>Litigation.....</b>	<b>25</b>
<b>Recommendations for Changes to the Law.....</b>	<b>26</b>
<b>Staff Duties .....</b>	<b>28</b>
<b>Financial Information.....</b>	<b>31</b>

**Janet Napolitano**  
Governor

**Colleen Connor**  
Executive Director



**L. Gene Lemon**  
Chairman

**David G. McKay**  
**Ermila Jolley**  
**Kathleen Detrick**  
**Marcia Busching**  
Commissioners

**State of Arizona**  
**Citizens Clean Elections Commission**

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To The Honorable Janet Napolitano  
Governor of Arizona

Dear Governor Napolitano:

Pursuant to Arizona Revised Statutes (A.R.S.) § 16-956(B)(3), the Citizens Clean Elections Commission (Commission) submits its Annual Report.

The Act is a campaign finance reform measure that was initiated by Arizona citizens and passed by voters in 1998. The Act creates a new campaign financing system that provides full public funding to qualified candidates who agree to abide by Commission guidelines. Legislative (House of Representatives and Senate) and statewide office candidates (Governor, Secretary of State, Attorney General, State Treasurer, Superintendent of Public Instruction, Corporation Commissioner and Mine Inspector) are eligible to receive public funding.

Although public funding is available only to "participating candidates" who choose to certify and qualify for such funding, the Act significantly impacts "nonparticipating candidates," or those candidates who are funding their campaigns with private contributions. The Act requires nonparticipating candidates to lower their campaign contribution limits by 20 percent and to adhere to new reporting requirements. If these reporting requirements are not met, the Commission is empowered to impose civil penalties. To qualify for funding, participating candidates must adhere to strict spending and contribution limits and gather \$5 qualifying contributions from district constituents who are registered voters. Participating candidates also agree to attend required debates.

Through the Commission's administration and enforcement of the Citizens Clean Elections Act in an honest, independent and impartial fashion, the Commission strives to uphold public confidence in the integrity of the electoral system.

Respectfully yours,

The Citizens Clean Elections Commission

## EXECUTIVE SUMMARY

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The statewide and legislative elections in 2002 continued to offer candidates the choice of using public funds for their campaigns through the Citizens Clean Elections Act.

In the General Election, 89 of the 170 candidates were Clean Elections candidates.

- In the statewide races, 7 of the 9 statewide offices are held by Clean Elections candidates: Governor, Secretary of State, Attorney General, Treasurer, Corporation Commission 2 year seat, Corporation Commission 4 year seat, and Mine Inspector
- In the Legislative races, 32 of the 90 seats are held by Clean Elections:
  - 36% of Arizona's Legislature is comprised of Clean Elections elected officials.
  - The Arizona House of Representatives has 27 Clean Elections elected officials.
  - The Arizona Senate has 5 Clean Elections elected officials
- Democrats and Republican share the Clean Elections program
  - 22 Republicans were elected with Clean Elections funds
  - 17 Democrats were elected with Clean Elections funds

An October 2002 poll by the Arizona Republic indicates that 64% of Arizonans believe that Clean Elections funds have had a positive impact on Arizona elections

- A June 2002 poll indicates that 66% of Arizonans support public funding elections. The poll was conducted by KAET-TV/Channel 8 and the Walter Cronkite School of Journalism and Mass Communication at Arizona State University
- Funding disbursed in the Primary Election was \$7,477,642 and in the General Election was \$5,385,239. The total disbursed for the 2002 election was \$12,862,881
- The Five-Dollar-Bill website, [fivedollarbillaz.com](http://fivedollarbillaz.com), has a number of candidate training videos to visually guide candidates through the Clean Elections process

## OVERVIEW

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The Citizens Clean Elections Commission met 19 times in 2002 to conduct business, adopt policies and procedures, undertake investigations, issue findings on complaints, investigate potential violations for probable cause, promulgate rules and produce multiple publications. The Commission also provided public funding to eligible candidates in the primary and general elections for Statewide and Legislative candidates during election year 2002.

Commission staff conducted training classes for both participating and nonparticipating candidates to assist in understanding reporting requirements, using the Campaign Finance Software (CFS) 2002, and to provide information to help comply with the Clean Elections Act.

The Clean Elections Act incorporates four major programs: public funding for certified candidates, campaign finance disclosure, voter education and enforcement. The following are highlights of the Commission's accomplishments and events during the year 2002:

### ***January 2002***

- The term of Commissioner Carl Lopez of Tucson, Arizona ended January 31, 2002
- Contract with Arizona State University as a Debate Sponsor was approved
- Informational brochures entitled "Spending Public Campaign Money" were accepted
- On December 31, 2001, a Superior Court Judge issued a ruling in the *Lavis v. Bayless* case. The lobbyist fees were judged unconstitutional and the 10% surcharge was upheld
- Ermila Jolley of Yuma, Arizona was selected by the Governor's Office to replace Commissioner Carl Lopez of Tucson, Arizona
- The 2001 Annual Report was approved
- Began consideration of office space, 1616 W. Adams
- Commission moved to accept the candidate statement intake pamphlet distribution procedure

### ***February 2002***

- The Secretary of State's Election Director gave an informative slide presentation on the duties of the Secretary of State and the County Recorders for the verification of \$5 qualifying contributions
- Senate Bill 1051, Voter Education Mailing, passed through the Senate Government Committee on Monday, February 11, 2002
- Developed candidate statement intake process and considered possibility of a second mailing in the General Election
- Reviewed participating candidates' January 31<sup>st</sup> campaign finance reports

### ***March 2002***

- Hired a Campaign Finance Assistant

- Adopted proposed language translation procedure for candidate debates
- Approved calculations for Commission designated one-party-dominant legislative districts
- Developed and adopted substantive policy statements on use of surplus campaign funds and candidates collection of qualifying contributions
- Determined cost for candidate statement pamphlet
- Established lease with Arizona Department of Administration for new office space
- Proposed Article 2 Rule changes

### ***April 2002***

- Commission adopted the Rule A.A.C. R2-20-104 (C) and (G) regarding surplus funds and constituent services
- Began process of monitoring independent expenditures
- Approved Commission meeting schedule for July-December 2002
- Approved the Substantive Policy Statements regarding travel related expenditures
- Adopted supplemental filing rule for qualifying contributions A.A.C. R2-20-105 with changes
- The House Judiciary Committee passed Senate Bill 1051- candidate statement pamphlet to be distributed by the Commission
- Continued to contact organizations that may be interested in sponsoring debates
- Completed the database for accepting the candidate statements and the input form, via the internet or e-mail and compiled into one database
- Continued formatting spreadsheet for tracking matching funds and independent expenditures and reviewed trigger reports filed to date
- The House bill to eliminate the additional \$5 from the check-off-box was defeated in a vote by the House

### ***May 2002***

- Approved the audit procedure
- Adopted revised enforcement rules
- Approved final quote from auditing firm to conduct audits of candidate committees
- Approved the Help Us Get Good Government (HUGGG) contract for debates
- Reviewed the redistricting matters
- Reviewed the debate schedule and contracts

### ***June 2002***

- Established CPR summer media tour dates
- Continued training seminars for nonparticipating and participating candidates
- Redistricting matters were resolved for the 2002 election

- Approved the one-party-dominant districts for the 2002 election
- The Director of the Center for Civic Participation gave a presentation regarding the Community Colleges' sponsorship of the CCEC debates
- Reviewed strategic planning for the 2003-2004 election cycle
- Reviewed the timetable for the production and completion of the Primary and General Election candidate statement pamphlet

### ***July 2002***

- Primary Election candidate statement pamphlet, English and Spanish versions were completed and sent to the printer
- Adopted substantive policy statement #14, A.A.C. R2-20-104 (G)-Officeholder Expenses
- Randomly selected candidates to have their June 30<sup>th</sup> report audited
- Reviewed participating candidates' June 30<sup>th</sup> campaign finance reports
- Primary election debate schedule finalized and posted on CCEC website

### ***August 2002***

- Deputy Director reviewed the timelines for the production of the 2002 Primary Election candidate statement pamphlet
- Executive Director's article for the Arizona State Law Journal, entitled "Raising Arizona: Strengthening Express Advocacy Regulation through the Citizens Clean Elections Act," was published in the summer of 2002 edition of the journal
- Reviewed the pre-primary reports to ensure that all participating candidates spent their early contributions
- Began mass mailing of the 2002 Primary Candidate Statement Pamphlet to all libraries, registered voters, and county recorders

### ***September 2002***

- General Election Candidate Statement Pamphlets draft was completed and sent to the printer
- Schedule for the General Election candidate debates was completed
- Arizona State University, CPR, and the community colleges continued to work together on advertising and publicizing the General Election debates
- The Commission's Chair Jones was elected to the board of trustees for the Campaign Finance Institute in Washington, D.C
- Reviewed participating candidates' pre-primary campaign finance reports

### ***October 2002***

- Monitored independent expenditure filings, worked with Campaign Media Analysis Group to monitor television markets, newspapers, billboard, auto dialers, radio advertisements and to ensure that matching funds were disbursed promptly
- Continued to work with L3 and CPR in publicizing debates
- Continued processing enforcement matters



- Attorney General Office filed the amicus brief regarding the 5<sup>th</sup> Circuit's case referencing express advocacy in *Chamber of Commerce vs. Moore*
- Arizona Supreme Court upheld the constitutionality of the 10% surcharge regarding the *May vs. Bayless* case
- Statewide debates began airing on Channel 8
- Department of Administration confirmed that the Commission will move to 1616 W. Adams in March 2003
- Reviewed participating candidates post-primary campaign finance reports

### **November 2002**

- Prepared to start advertising for the voluntary tax donations and the \$5 check off
- Worked on the 2003 budget projections and possible legislative changes
- U.S Supreme Court denied the petition for Writ of Certiorari filed regarding *Chamber vs. Moore*
- Approved the preliminary audit reports for the randomly audited June 30<sup>th</sup> campaign finance reports
- Reviewed participating candidates' pre-general campaign finance reports

### **December 2002**

- Nominated and approved Commissioner Lemon as the chair of the Commission for 2003
- Reviewed post general finance reports to determine compliance and the amount of any General Election unspent monies to be returned to the fund
- The Executive Director, Commissioner Lemon, and Todd Lang participated in the legislative working-group discussions with the Secretary of State's Bayless Committee to propose legislative changes to the Act
- Mailed letters to individuals who, in the past, have participated in the voluntary tax credit donation and the \$5 tax check off to remind them that the 2002 donation must be made by December 31, 2002
- Accepted the budget of revenues and expenditures for 2003
- Declined to make changes regarding reallocating spending limits A.R.S. 16-959 (B)
- Conducted a review of inaugural expenses
- Assistant Attorney General reported that in the *May vs. Bayless* a petition for the Writ of Certiorari is expected to be filed in early January 2003
- Approved the 2003 Commission meeting schedule
- Randomly selected candidates to have their post-general campaign finance reports audited
- Staff reviewed participating candidates' post-general campaign finance reports

## THE CITIZENS CLEAN ELECTIONS ACT

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The Citizens Clean Elections Act, which was passed by voters in the November 1998 General Election, fundamentally changed Arizona's campaign finance laws by establishing a system for publicly funding candidate election campaigns. The system is voluntary; candidates may choose to participate in the system or they may choose to raise funds in the traditional manner.

The Governor proclaimed the Act as law on December 10, 1998. On February 16, 1999, the United States Department of Justice precleared the Act, thereby allowing the Act to go into effect. Then, the Citizens Clean Elections Commission was formed.

The following are highlights of the statutory scheme:

1. The Act applies to candidates for legislative and statewide offices.
2. To participate in the public funding system, a candidate must raise a limited number of \$5 contributions during a defined qualifying period. Contributions may only be made by qualified electors in the candidate's district. Furthermore, contributions from corporations and political action committees are prohibited.
  - For statewide office, the qualifying period runs from August 1 of the year before the election until 75 days before the general election.
  - For legislative office, the qualifying period runs from January 1 of the election year until 75 days before the general election.
  - The minimum number of \$5 qualifying contributions candidates must obtain during the qualifying period are as follows:

Legislature	200
Mine Inspector	500
Corporation Commissioner	1,500
Superintendent of Public Instruction	1,500
Treasurer	1,500
Attorney General	2,500
Secretary of State	2,500
Governor	4,000

3. The person soliciting qualifying contributions for a candidate cannot be compensated by the candidate to collect the contributions.

4. Participating candidates must complete the following provisions in order to qualify for funding.

- Candidates must apply for public funding with the Secretary of State within one week after the end of the qualifying period.
- The candidate also must file a schedule of the persons making qualifying contributions and give the Secretary of State a check in the amount of the \$5 qualifying contributions received, as well as the original signed contributor slips.

5. There are set amounts of public funding for participating candidates.

- Candidates who qualify for funding in contested party primary elections may receive an amount equal to the original primary election spending limit. Those amounts are as follows:

Legislature:	\$ 10,790
Mine Inspector:	\$ 21,580
Corporation Commissioner:	\$ 43,150
Superintendent of Public Instruction:	\$ 43,150
Treasurer:	\$ 43,150
Attorney General:	\$ 86,310
Secretary of State:	\$ 86,310
Governor:	\$409,950

- The day after the primary election, qualifying candidates who are major party candidates in opposed elections may receive the following public funds:

Legislature:	\$ 16,180
Mine Inspector:	\$ 32,370
Corporation Commissioner:	\$ 64,730
Superintendent of Public Instruction:	\$ 64,730
Treasurer:	\$ 64,730
Attorney General:	\$129,460
Secretary of State:	\$129,460
Governor:	\$614,930

- An independent candidate is eligible to receive 70 percent of the sum of the original primary and general election spending limits.
- An unopposed candidate is eligible to receive only his or her qualifying contributions as the spending limit for that election.

- Participating candidates for the Legislature may use \$530 of personal monies for their campaigns and candidates for statewide office may use \$1,060 in personal monies for their campaigns.

6. Participating candidates may raise a limited number of private contributions, which are called early contributions, during the exploratory and qualifying periods. The early contributions are limited to \$110 per contributor. The limits on the amounts that candidates may raise in early contributions are as follows:

Legislature:	\$ 2,650
Mine Inspector:	\$ 5,310
Corporation Commissioner:	\$10,610
Superintendent of Public Instruction:	\$10,610
Treasurer:	\$10,610
Attorney General:	\$21,220
Secretary of State:	\$21,220
Governor:	\$42,440

7. Participating candidates having debt from a prior election in which they were not publicly funded may accept contributions to retire that debt, subject to the nonparticipating candidate limits and only during the exploratory period.
8. Nonparticipating candidate contribution limits are lowered by 20 percent.
9. Participating candidates are entitled to receive matching funds when an opposing, nonparticipating candidate exceeds the primary or general election spending limits. Matching funds also will be provided to participating candidates when independent expenditures are made on behalf of an opponent candidate in the race.
10. The Citizens Clean Elections Fund receives its revenues from the following sources:
  - An additional surcharge of 10 percent imposed on all civil and criminal fines and penalties collected pursuant to A.R.S. § 12-116.01
  - A \$5 voluntary contribution per taxpayer who files an Arizona state income tax return by marking an optional check-off box on the first page of the form. A taxpayer who checks this box

receives a \$5 reduction in the amount of tax and \$5 from the amount of taxes paid will be transferred to the Fund.

- A voluntary donation to the Fund by designating the Fund on an income tax return form filed by the individual or business entity, or by making a payment directly to the Fund. Any taxpayer making a donation shall receive a dollar-for-dollar tax credit not to exceed 20 percent of the tax amount on the return or \$530 per taxpayer, whichever is higher.
- Qualifying contributions received by participating candidates.
- Civil penalties assessed against violators of the Citizens Clean Elections Act.

11. There are additional campaign finance reporting requirements.

- a. In addition to existing campaign finance reports that all candidates must file, nonparticipating candidates must file “original” and “supplemental” campaign finance reports with the Secretary of State when the candidates make expenditures that exceed 70 percent of the primary election spending limit, or receive contributions, less the expenditures through the primary, that exceed 70 percent of the general election spending limit.
- b. Participating candidates must comply with existing campaign finance reporting laws.
- c. Campaign finance reports must be filed electronically with the Secretary of State and bank accounts, campaign finance reports and financial records relating to the campaign must be available for public inspection.
- d. Any individual or entity making an independent expenditure on behalf of a candidate must report the expenditure once it exceeds \$530 in an election cycle. Each additional independent expenditure totaling \$1,060 must be reported as well.

12. There are potential legal consequences for enforcement actions.

- a. Civil penalties
  - I. A participating candidate who exceeds the contribution or expenditure limits, shall be assessed a penalty of ten times the excess contribution or expenditure.
  - II. Any candidate that violates the reporting requirements,

shall be assessed a penalty of \$110 per day for legislative candidates and \$320 per day for statewide candidates.

III. Under some circumstances, the candidate may be disqualified or forced to forfeit office.

IV. A knowing violation by a participating candidate will require the candidate to repay from personal funds, all monies expended from the candidate campaign account, as well as returning to the fund the candidate's campaign account.

b. Knowing violations are prosecutable as a Class One Misdemeanor

13. The Act establishes a 5-member Commission, the Citizens Clean Elections Commission, to implement and enforce the Act.

## THE CITIZENS CLEAN ELECTIONS COMMISSION

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### **Authority:**

The Citizens Clean Elections Commission was established by the enactment of the Citizens Clean Elections Act, A.R.S., Title 16, Chapter 6, Article 2. In addition to enforcing the provisions of Article 2, the Commission promulgates rules and enforces A.R.S. §§ 16-940 through 16-961.

The Commission holds regular meetings, which are open to the public, and annually elects its chair and reports its activities to the Governor, the Legislature and the public.

### **Function:**

The Commission consists of 5 members:

- No more than 2 shall be members of the same political party.
- No more than 2 shall be residents of the same county.
- No one shall be appointed who does not have a party registration that has been continuously recorded for at least 5 years immediately preceding appointment, with the same political party or as an independent.
- Each candidate shall be a qualified elector who has not, in the previous 5 years in this state, been appointed to, elected to or run for any public office, including precinct committeeman, or served as an officer of a political party.
- A member of the Commission shall serve no more than one term and is not eligible for reappointment.
- No Commissioner, during his or her tenure or for 3 years thereafter, shall seek or hold any other public office, serve as an officer of any political committee or employ or be employed as a lobbyist.

## **COMMISSIONER BIOGRAPHIES**

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### **Chair Dr. Ruth S. Jones – Democrat – Maricopa County**

Attorney General Janet Napolitano appointed Scottsdale resident Ruth Jones to the Citizens Clean Elections Commission in 1999 for a term that will expire in 2003. Dr. Jones was elected by the Commissioners to Chair the Commission for calendar year 2002. Dr. Jones holds a bachelor's degree from Indiana State University and a doctorate in political science from Georgetown University. Dr. Jones has been with Arizona State University since 1981 and currently serves as professor of political science and executive assistant to the university president for university programs. Her extensive teaching and research in fields of election campaign finance, American politics and interest groups are reflected in her many publications, including books, journal articles and papers, as well as national conference presentations. Her research specialty is state-level campaign finance.

Dr. Jones has reserved has served as chair for the Political Organizations and Parties section of the American Political Science Association and as a steering committee member of the Council on Government Ethics Laws (COGEL). Her community work includes service as a board member of Girls Ranch of Arizona and Neighborhood Partners Inc. She has received numerous awards and recognition for her teaching and research activities and has held many leadership roles in regional and national professional associations.

### **Leslie Gene Lemon – Republican - Maricopa County**

Governor Jane Dee Hull appointed Phoenix resident Gene Lemon to the Citizens Clean Elections Commission in 1999 for a term that will expire in 2004. Mr. Lemon served as the first Chair of the Commission, first elected by the Commission in 1999, and continued to serve as the Chair after being elected by the Commissioners for calendar-years 2002 and 2001. Mr. Lemon received his bachelor's and law degrees from the University of Illinois. He retired as vice president-administration from VIAD Corp. (formerly Dial Corp. and Greyhound Corp.), where he also spent 27 years (1972-1999) as assistant general counsel and general counsel. From 1964-1969 Mr. Lemon was senior attorney for Armour and Co. From 1964-1969 he served as assistant general counsel to the American Farm Bureau Federation and affiliated companies.

Mr. Lemon has served on numerous boards, including board of directors (1992-1997) and chairman of the audit committee (1993-1995) for FINOVA Group Inc.; board of directors (1995-1997) for the Food & Drug Law Institute; board of directors (1989-1995) for the Phoenix Chamber of Commerce; board of directors (1985-1998)



and chairman of the board (1993-1995) for the Phoenix Children's Hospital; board of trustees (1985-1998) and president (1990-1992) for the Phoenix Art Museum; and grand president (1974-1976) and currently serves on the board of directors of the American Arbitration Association; the National Conference of Commissioners of Uniform State Laws; the board of directors and the steering committee for the Arizona Voice for Crime Victims and the board of visitors for the University of California-Davis School of Medicine. Mr. Lemon is a member of the American Bar Association; the Association of General Counsel, Arizona State Bar; Maricopa County Bar Association; Internal Bar Association; Arizona Club; City Square Racquet Club and Paradise Valley Country Club.

### **Ermila Jolley– Democrat – Yuma**

Governor Jane Hull appointed Yuma resident Ermila Jolley to the Citizens Clean Elections Commission in 2002 for a five-year term that will expire in 2007. She is filled the seat formerly held by Commissioner Carl Lopez, a Tucson resident. Ms. Jolley was appointed to the Yuma County Redistricting Commission in May 2001 and currently serves as president of the Yuma Community Hispanic Forum. Ms. Jolley has also served a Democratic precinct committee person in Yuma County since 1992. She also is the transitional administrator for JOL Enterprises, Inc., an electrical engineering firm recently sold by her husband Al Jolley. The couple also owns a small firm, A-E Electrical Consultants, Inc.

### **Kathleen S. Detrick – Independent – Pima County**

Attorney General Janet Napolitano appointed Tucson resident Kathleen Detrick to the Citizens Clean Elections Commission in 2001 for a term that will expire in 2006. Ms. Detrick has served as the City Clerk and Campaign Finance Administrator for the City of Tucson, Arizona since 1991. The City Clerk is a Charter officer appointed by the Mayor and Council for a two-year term of office. The Campaign Finance Administrator serves at the will of the Mayor and Council. Ms. Detrick has been employed by the Tucson City Clerk's office since 1971. In 1981 Ms. Detrick was appointed Chief Deputy City Clerk and served as the City Elections Director from 1981 until the appointment as City Clerk in 1991. The City of Tucson has the only other public campaign-funding program in the State of Arizona and has been used as a model by other jurisdictions interested in implementing a similar program. Ms. Detrick was a member of the team that developed the Tucson public campaign-funding program and has been part of the administration of the program since its approval by electorate in 1985.

### **David G. McKay – Republican – Coconino County**

Governor Jane Dee Hull appointed Flagstaff resident Dave McKay to the Citizens Clean Elections Commission in 2000 for a term that will expire in 2005. Mr. McKay received his bachelor's and master's degrees from Northern Arizona University. He retired after 35 years with the Flagstaff Unified School District, where he served as principal of Thomas Knoles Elementary School (1987-1998); principal of Christensen Elementary School (1982-1987); assistant principal of Christensen and Killip Elementary Schools (1976-1982); title III coordinator for Flagstaff Public Schools (1973-1976); assistant principal for Mt. Elden Elementary School (Killip) (1968-1973); guidance counselor for Flagstaff Elementary Schools (1966-1968); and science teacher for Flagstaff Junior High School (1963-1966). Mr. McKay founded Big Brothers of Flagstaff in 1968 and has served as executive director since. He also has served as a member of the Arizona School Administrators (1982-1997) and currently is a member of the investigative interview committee for the State Dental Board.

## **COMMISSION MISSION AND VISION**

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### **Mission Statement**

To fairly, faithfully and fully implement and administer the Arizona Citizens Clean Elections Act.

### **Vision Statement**

Through the successful implementation of the Arizona Citizens Clean Elections Act, the Commission seeks to improve the integrity of Arizona state government and promote public confidence in the Arizona political process.

## **SUMMARY OF COMMISSION ACTIVITIES**

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### **Meetings**

The Citizens Clean Elections Commission held:

- 19 regular meetings

### **Publications**

The Citizens Clean Elections Commission issued the following publications:

- Annual Report for 2001
- Candidate Statement Pamphlets for the 2002 Primary & General Elections
- Citizens Clean Elections Users Handbook
- Citizens Clean Elections Act, Rules and Policies Manual

### **Voter Education**

#### Candidate Debates

The Commission contracted with the HUGGG (Help Us Get a Good Government), Community Colleges, The Tombstone Tumbleweed, and Arizona State University. The sponsors were chosen based on experience, resources, and nonpartisan affiliations. The Commission sponsored the series of debates previous to the Primary and General election. These debates were mandatory for participating Commission candidates and optional for nonparticipating candidates. Nonparticipating candidates were invited and were encouraged to participate in any Commission sponsored debates.

All candidates were required to appear in person, not by proxy or electronically, unless to accommodate a disability.

The Commission sponsored a total of 60 debates for the primary and general elections.

- 30 debates were held in the primary election period.
  - Total candidates for Statewide and Legislative Office were 247
  - 139 were participating candidates
- 30 debates were held in the general election period.
  - Total candidates for Statewide and Legislative Office were 170
  - 89 were participating candidates

### Candidate Statement Pamphlet

A copy of the pamphlet was mailed to every household with a registered voter, approximately 1.4 million Arizona households. The Candidate Statement Pamphlets were also mailed to every chamber of commerce, motor vehicle department, and local libraries in the State of Arizona. These pamphlets were available in English, large print, and Spanish.

### Sun Sounds

Sun Sounds of Arizona, a not-for-profit information access service for blind and visually impaired people, the Arizona Secretary of State, Citizens Clean Elections Commission, and the Commission on Judicial Performance and Review partnered to provide access to printed election material for voters who cannot read due to a physical or visual disability. Sun Sound of Arizona made its Sun Dial system available for the election at no charge to the State and the Citizens Clean Elections Commission paid for the toll-free number, 1-888-878-3271. After this election, Arizonans who have disability who wish to continue to hear newspapers and other current print via Sun Dial can register, at no charge, with Sun Sound of Arizona. The information is also available on the Sun Dial web page at <http://sunsounds.org>.

### Staff Training and Outreach

Staff held monthly seminars for participating and nonparticipating candidates to provide information on the Clean Elections Law and reporting responsibilities. Candidates and their staff received an overview of the law, the election timeline, and reporting requirements.

**Website (<http://www.ccec.state.az.us>)**

The Commission maintains a site on the internet that provides many client services, including the following:

- Electronic posting of Commission meeting notices, minutes and findings
- List of candidates who received public funding for the 2002 election
- 2002 election public funding disbursements
- Electronic versions of many Commission publications and forms
- Links to the Arizona Statutes, State of Arizona, Secretary of State and Arizona State Legislature
- Commission and staff contact information and automatic e-mail access
- Biographies of current Commission members
- Candidate debate schedules
- Frequently asked questions
- Press releases
- Substantive policy statements
- Proposed legislative changes
- Proposed rules for public comment
- Citizens Clean Elections Act, Rules, and Policies Handbook
- Spending limit chart
- Candidates can enter their candidate statements directly on the website

**Enforcement**Summary of Complaints

- The Commission received 75 complaints. 47 were against participating candidates and 28 were against non-participating candidates.
- The Commission investigated 24 of the complaints.
- Enforcement imposed fines totaled \$32,240.00
- Settlements totaled \$19,500.00

### Staff Review of Campaign Finance Reports

- Staff reviewed the standard period reports filed by all participating candidates in order to determine if the candidates were complying with the Act. These reports include the January 31<sup>st</sup> Report, the June 30<sup>th</sup> Report, the Pre-Primary Report, the Post-Primary Report, the Pre-General Report, and the Post-General Report. Staff notified candidates of problems with the reports and either worked with them to make corrections or initiated an enforcement action, depending on the individual circumstance.
- Staff performed a daily review of nonparticipating candidate and independent expenditure committee campaign finance reports in order to provide matching funds to participating candidates. Staff received instant notification from the Secretary of State via email when a campaign finance report was filed. This enabled staff to provide matching funds on a timely basis. The Secretary of State also provided Staff with access to a report that summarizes all filings made by all candidates.
- Participating candidates filed a supplemental campaign finance report on September 13, 2002 to show their ending fund balance from the primary election. Staff reviewed these reports and sent letters to candidates requesting that their fund balance be returned to the Commission.
- Staff reviewed participating candidates' Post-General campaign finance reports in order to determine each candidate's fund balance at the end of the General period. Staff sent letters to candidates requesting that their fund balance be returned to the Commission.

### Proposed Enforcement Rules

- The staff, with the Commission's input, drafted new enforcement rules to improve the Commission's ability to enforce the Act.
- The rules specifically describe and provide a step-by-step analysis of the complaint, investigation and settlement processes.
- The rules set forth the procedure for appealing a Commission decision to the Office of Administrative Hearings in accordance with A.R.S. § 41-1092 et. seq. This step is absent in the enforcement section of the Act.
- The rules set guidelines for the assessment of civil penalties.

## **CERTIFYING AND FUNDING CANDIDATES**

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### **Primary Election**

There were 247 statewide and legislative candidates seeking election in the September 10, 2002 primary election. The Commission certified 139 of those candidates as participating candidates pursuant to A.R.S. § 16-947.

- \$7,477,642 was allocated to candidates in the primary election.
- 36 candidates received equalizing funds.

### **General Election**

A total of 170 candidates proceeded to the November 5, 2002 general election. The Commission funded 89 of the candidates.

- \$5,317,222 was allocated to candidates in the general election.
- 42 candidates received equalizing funds.

### **Election Results**

In the general election, 39 participating candidates received the highest number of votes in the election.

- Senate: 5 of 30
- House: 27 of 60
- Statewide: 7 of 9

## Comparison of Unopposed Races in the 1998, 2000, and 2002 Elections

### **1998 General Election** (Pre Clean Elections Act)

Senate: 44 candidates, 17 unopposed races

House: 91 candidates, 11 unopposed races

Total: 135 candidates, 28 unopposed races

### **2000 General Election** (Post Clean Elections Act)

Senate: 64 candidates, 7 unopposed races

House: 150 candidates, 1 unopposed race

Total: 214 candidates, 8 unopposed races

### **2002 General Election**

Senate: 49 candidates, 13 unopposed races

House: 98 candidates, 7 unopposed races

Total: 147 candidates, 20 unopposed races



## LITIGATION

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### **State Court Decision:** *May v. Bayless*

The Arizona Supreme Court rejected the argument that Clean Elections violated the First Amendment rights of persons assessed a surcharge on civil and criminal fines. The court decision declares Arizona's Clean Elections Law "protects free speech rights by requiring viewpoint neutrality" and that the law "is clearly neutral with regard to the ideology or message of any candidate." Viewpoint neutrality means that Clean Elections funding is open to all candidates who qualify, regardless of political party or ideology.

The Court also discarded the plaintiffs' belief that violators of the law constitute an association saying "We disagree with May's (the plaintiff) premise that the surcharge does not apply to all Arizonans. It does...the clean elections surcharge is not limited to a particular group or industry."

Finally, the Court dismissed the argument that public money should not be used for candidates. Instead, the Court said that taxes are used "to pay the salaries of state legislators, some of whom an individual taxpayer might support and others whom the taxpayer might not support. Yet no one would suggest that such payments violate the First Amendment."

The Arizona Supreme Court reversed an earlier decision by the Arizona Court of Appeals and affirmed Superior Court Judge Colleen McNally's decision.

## RECOMMENDATIONS FOR CHANGES TO THE LAW

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1. Remove the provisions that Arizona courts have found unconstitutional:

- I. Lobbyist fee provision (A.R.S § 16-944), and
- II. Duties of Commission on Appellate Court Appointments

*Unconstitutional provisions in the statutes must be removed.*

2. Modify the Filing Timeframes:

- I. Begin the Qualifying Period after the preceding general election, and
- II. End the Qualifying Period 60 days before the primary Election, which would be 30 days after nomination papers are due. A.R.S § 16-961 (B) (3)

*Currently, the qualifying period begins on August 1<sup>st</sup> in the year prior to an election and ends 75 days prior to the general election. This change requires candidates to qualify earlier and to receive funding when it may be beneficial to their campaigns, not when the campaigns are almost over.*

3. Modify reporting requirements for candidates:

- I. Additional filings for Participating Candidates:
  - a. File a report after the end of the qualifying period to Determine if early contributions have been spent or need to be returned to the Clean Elections Fund (A.R.S. § 16-947)
  - b. File a report when applying for certification/ Clean Elections candidacy (A.R.S § 16-947)

*These changes conform the statutes to Commission rules. Require a report to be filed at the time a candidate applies for certification (registers intent to run as a “clean” candidate.)*

- II. Reduce the reporting requirements for Nonparticipating Candidates:
  - a. File trigger reports after the start of the qualifying period
  - b. Trigger reports are due only if a nonparticipating candidate is opposed in the primary and general elections

*To remove unnecessarily burdensome reporting requirements currently placed on Nonparticipating Candidates.*

4. Qualifying for funding: Application for funding is due at the end of the qualifying period; slips first checked by the Secretary of State's Office; and verification of contribution during qualifying period and only after candidate has been certified. Include provision regarding a supplemental filing of qualifying contributions if the candidate fails to qualify for funding the first time. (A.R.S §§ 16-946 & 950)

*This provision allows the Secretary of State to reduce paperwork transmitted to the County Recorders and the cost associated with verification by permitting the Secretary of State to disqualify slips that are invalid on their face. It adds a provision to statute allowing a candidate to file a one-time supplemental filing of qualifying contributions if the first filing is deficient. This confirms the statute with the Commission rule.*

#### 5. Enforcement

- I. This adds an administrative appeal and provides for confidentiality during an investigation. (A.R.S. § 16-957) Complaint and recommendation to the Commission would be public records available to the public; investigation documents would remain confidential until conclusion of investigation.
- II. General enforcement authority is given to impose civil penalty up to \$1000 for any violation where no penalty is specified (A.R.S. § 16-942)
- III. Requires that clean elections funding only be used for campaign expenses (A.R.S. § 16-948)

*Currently the entire process from filing the complaint, through the investigation, to the staff recommendation, is an open public record. In common law enforcement practice, investigations are confidential. Under this change, a complaint filed would remain public record. A confidential investigation would be conducted and would be made public with the staff recommendation to the Commission. This would provide consistency with general law enforcement investigative practices. The enhanced reporting is recommended to ensure that Participating Candidates spend public funds in compliance with the rule.*

6. Express Advocacy Definition: This change provides more guidance for matching funds for independent expenditures (A.R.S. § 16-901.1)

## **STAFF DUTIES**

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### **Executive Director**

Facilitate achievement of the Commission's goals and objectives. Direct agency operations and supervise staff, advise and support the commission, oversee and monitor the implementation of the Commission policies and procedures, publications and forms. Advise the Commission on potential and pending issues and provide and establish efficient and effective mechanisms of communication among various stakeholders of the Act. Oversee and monitor the implementation of Commission policies and procedures. Set agenda and prepare materials for Commission and committee meetings. Serve as the Commission's representative to the Legislative and Executive Branch. Educate and assist candidates in compliance with reporting requirements, limits, and prohibitions, and assist candidates in participating and obtaining public funding.

### **Deputy Director**

Serve as advisor to the Executive Director and assist in management of the operations for the agency. Draft budget and oversee all day-to-day operations of the agency. Supervise and manage all of the financial operations for the agency. Develop, implement and oversee the agency strategic plan and manage the operational aspect of the plan for results. Develop personnel performance evaluations for staff. Manage the agency's compliance programs and information resources. Provide operational planning and management for the Commission's information technology resources. Perform systems analysis of all Commission programs and functions to determine appropriate uses of technology to further Commission goals. Provide application design, specification, project management and user training and support for the campaign finance software. Provide management with guidance in design of Commission website, develop high-level programming for interactive applications delivered on the web. Provide assistance to candidates and other interested parties.

### **Executive Assistant**

Manage human resource procedures and systems requirements. Serve as agency liaison to candidates and other state agencies. Develop, maintain, and manage complex database applications to support administration of all Commission programs and activities. Provide technical service, assistance and training to Commission staff. Assist the Executive Director in the development of operating policies and procedures; assist in long-range organization planning; conduct special studies; recommend changes to correct operating deficiencies; recommends improvements to the provision of services to the public; prepare administrative directives; provide assistance and guidance as requested; represents the Executive Director at meetings involving personnel, government officials, political candidates and public leaders; prepare a variety of administrative reports; supervise personnel; assist Executive Director in executing the Citizens Clean Elections Act.

## **Voter Education Manager**

Responsible for the development, creation and distribution of the Voter Education Guide to every household with a registered voter. Provide advice and guidance to debate sponsors, Commission staff and candidates for candidate debates. Manage all aspects of publicity, marketing and educational publications for the Commission, including advertising the Commission activities for debates, voter guide, and tax donations in newspapers, on radio, and other media. Provide educational seminars to candidate committees and community groups. Work with elected officials, community leaders, large and small employers, political parties, media and other state and local officials to enhance the understanding of the Act. Provide assistance with the development and promulgation of rules and regulations that allow the Commission to achieve the purposes of the Act.

## **Fiscal Services Manager**

Reviews, monitors and controls amounts expended from the budget to assure that expenditures do not exceed funds available; reports problems to Executive Director; and reads and analyzes budget requests, gathers data, confers with agency personnel, and makes budget recommendations. Serve as the primary liaison between the Commission and the General Accounting Office, vendors and other subcontractors for the proper functioning of all financial systems and transactions. Develops standard operating procedures for all financial procedures relating to Commission activity. Gathers and compiles data and writes detailed reports summarizing financial transactions and status of accounts for a given period; allocates funds to agency programs including voter education, administration and enforcement; and composes directives and procedures as these relate to financial activities of the agency.

## **Administrative Assistant III**

Provides administrative assistance for the Executive Director and the Administrative Counsel. Provides support in the preparation and execution of bi-weekly Commission meetings. Production of computer-generated letters, memorandum and reports. Administer local area network and modifications to website.

## **Administrative Assistant II**

Provide administrative support to the Deputy Director and to other personnel if needed. Draft letters, memos, agendas, faxes, and answer telephones. Schedule project and client meetings on and off-site, and contact attendees to determine availability and to confirm meetings. Photocopy and distribute memos, correspondence and routine mailings. Prepare documents for mailing, open and distribute mail, and oversee mail meter.

## **Campaign Finance Analyst**

Monitors and reviews both participating and nonparticipating candidate campaign finance reports. Calculates matching funds for participating candidates based on nonparticipating candidate campaign finance reports. Maintains contact with campaign treasurers and Secretary of State Elections staff. Responsible for all aspects of the candidate complaint process, including investigation and analysis; making recommendations to the Executive Director regarding the statute or rule violation; and tracking each complaint on the complaint tracking database program. Determines one-party dominant legislative districts. Tracks independent expenditures.

## **Campaign Finance Assistant**

Responsible for assisting the coordination of office responsibilities for filing and enforcement of Arizona Campaign Finance Laws: authority to determine scope and depth of enforcement audits; for suggesting and implementing improvement for the enforcement audit process; interpret the Clean Elections Act, rules, regulations, policies and procedures governing the Citizens Clean Elections Commission; advice the Campaign Analyst when a violation of the Act is suspected; organize a system for tracking and initiating enforcement actions; using judgment and discretion in giving information to candidates and committees on use of forms, software and filing requirements; for completing audits in a timely, accurate and professional manner.

## **FINANCIAL INFORMATION**

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### **Caps on Expenditures**

The Act prescribes certain caps on expenditures from the Citizens Clean Elections Fund. Pursuant to A.R.S. § 16-949 (A), the Commission shall not spend more than \$5 times the number of Arizona resident personal income tax returns filed during the previous calendar year on all costs incurred under the law during a particular calendar year.

In calendar year 2001, there were 2,069,060 personal income tax returns filed with the Arizona Department of Revenue. This number was the sum of all forms 140, 140NR, 140PY, 140NPR, 140A and 140EZ filed. The cap on total expenditures for calendar year 2002 from the Citizens Clean Elections Fund was \$10,345,300. The Commission, however, may combine the cap amount for two calendar years during the four year period between gubernatorial elections. Therefore, the cap amount for 2002 was determined by multiplying \$5 by the number of resident personal income tax returns for two previous years, or \$19,821,738.

In addition, the Act imposes a cap on expenditures for administration and enforcement activities. The Commission may use up to 10 percent of the annual limit on costs for reasonable and necessary expenditures for administration and enforcement pursuant to A.R.S. § 16-949 (B). The amount of \$1,034,530 was the cap for reasonable and necessary expenditures for administration and enforcement in calendar year 2002. The Commission spent \$845,141 or 4.3 percent of the amount specified in § 16-949 (A), well below the authorized cap for expenditures for administration and enforcement.

Moreover, the Commission is required to spend 10 percent of its annual cap on revenue for voter education pursuant to A.R.S. § 16-949 (C). In 2002, the Commission spent \$1,601,437 or 8.1 percent of the amount specified in A.R.S. § 16-949 (A).

## FINANCIAL INFORMATION

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Sources of Revenue  
for the Citizens Clean Elections Fund  
AFIS Fund Number 2425  
For calendar year 2002  
(Unaudited)

SALES & CHARGES FOR SERVICES	
Lobbyist Filing Fees <sup>1</sup>	\$(176,615)
FINES, FORFEITURES & PENALTIES	
Court Assessments <sup>2</sup>	\$6,233,444
Commission Assessments <sup>3</sup>	<u>\$19,500</u>
<i>Subtotal</i>	<i>\$6,252,944</i>
OTHER REVENUE	
\$5 Tax Reduction Check-offs	\$3,254,258
Voluntary Donations	\$52,063
Tax Credit Donations	\$98,688
Candidate Qualifying Contributions	<u>\$506,616</u>
<i>Subtotal</i>	<i>\$3,911,625</i>
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TOTAL REVENUE	\$9,987,954

<sup>1</sup>In April 2002, the Arizona Superior Court ruled that the lobbyist fee was unconstitutional. The Commission was also ordered to refund all lobbyist fees collected. This line item reflects the amount the Commission returned to the individual lobbyists in 2002.

<sup>2</sup>This line item reflects the 10% surcharge imposed on all civil and criminal fines and penalties.

<sup>3</sup>This line item reflects Commission imposed penalties on candidates.



Uses of Expenditures  
From the Citizens Clean Elections Fund  
AFIS Fund Number 2425  
For Calendar Year 2002  
(Unaudited)

EXPENDITURES	Administrative and Enforcement	Voter Education	Campaign Funds *	Total
Personal Services	\$295,701	\$169,344	\$0	\$465,046
Employee-Related Expenditures	\$56,628	\$31,629	\$0	\$88,257
Professional & Outside Services	\$290,280	\$516,569	\$0	\$806,849
Travel In-State	\$8,862	\$2,562	\$0	\$11,424
Travel Out-of-State	\$6,571	\$88	\$0	\$6,659
Aid to Individuals and Organizations	\$0	\$5,192	\$12,728,684	\$12,733,876
Other Operating Expenditures	\$172,057	\$870,470	\$428	\$1,042,955
Capital Equipment	\$9,109	\$2,922	\$0	\$12,031
Non-Capital Equipment	\$5,932	\$2,659	\$0	\$8,591
Operating Transfers Out	\$0	\$0	\$0	\$0
<b>TOTAL EXPENDITURES</b>	<b>\$845,141</b>	<b>\$1,601,437</b>	<b>\$12,729,112</b>	<b>\$15,175,689</b>

\*The total amount disbursed for the 2002 election was \$12,862,881. After candidates returned unspent campaign funds, the actual amount used by candidates totaled \$12,729,112

Summary of Sources and Uses of Revenues and Expenditures  
for the Citizens Clean Elections Fund  
AFIS Fund Number 2425  
For Calendar Year 2002  
(Unaudited)

Beginning Fund Balance (January 1, 2002)		<u>\$12,361,758</u>
REVENUES		
Lobbyist Filing Fees	\$(176,615)	
Fines, Forfeitures & Penalties	\$6,252,944	
Other	<u>\$3,911,625</u>	
TOTAL REVENUES	\$9,987,954	
EXPENDITURES		
Administrative and Enforcement	\$(845,141)	
Voter Education	\$(1,601,437)	
Campaign Funds	<u>\$(12,729,112)</u>	
TOTAL EXPENDITURES	\$(15,175,689)	
Adjustment to AFIS <sup>1</sup>		\$6,375
Beginning Fund Balance (January 1, 2003)		<u>\$7,180,398</u>

<sup>1</sup>The Commission operates on a calendar year basis and the state accounting system operates on a state fiscal year basis (July 1 to June 30). This line item reflects adjustments for reversions from the Attorney General's Office and Central Services Bureau.